

Indiana Department of Education

Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1848.01
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	December 26, 2001
DATE OF REPORT:	January 25, 2002
REQUEST FOR RECONSIDERATION:	yes/revised March 8, 2002
DATE OF CLOSURE:	June 28, 2002

COMPLAINT ISSUES:

Whether the Flat Rock-Hawcreek School Corporation and the Blue River Special Education Cooperative violated:

511 IAC 7-25-7 by failing to conduct an additional evaluation and convene a case conference committee meeting within sixty instructional days from the date of the parent's written consent.

511 IAC 7-22-2 by failing to provide the parent with written notice before the school proposed or refused to change the identification, evaluation, or special education placement of the student.

511 IAC 7-27-7(d) by continuing to implement an individualized education program (IEP) that was more than twelve months old.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically, failing to provide identified accommodations/modifications.

FINDINGS OF FACT:

1. The Student is sixteen years old and attends a local high school (the "School"). The Student is eligible for special education and related services as a student with an other health impairment.
2. The parent made a written request for an additional evaluation on September 17, 2001. The sixty instructional day timeline expired on December 14, 2001. The School conducted the additional evaluation on December 3, 2001, within the sixty instructional day timeline. However, a case conference committee ("CCC") meeting was not held to review the evaluation.
3. The parent asserts the school failed to send prior written notice of its refusal to include math-related goals and objectives based upon the WISC-III and the WIAT as requested by the parent at the CCC meeting on September 19, 2001. The parent raised this issue at CCC meetings in March and May 2001. The Parent CCC Meeting Issues forms, developed by the parent, and submitted to the CCC in March and May indicate, among other things, the parent's desire to have goals and objectives for math based on the WIAT. In the space on the form to indicate the school's reply, the March 15, 2001 form states "School cannot base annual goals on the WIAT. School must base annual goals on State Mandated Standards." The May 14, 2001 form has a handwritten notation stating "Academic goals should be written according to Indiana Academic standards, not based on grade equivalents." During the September 19th CCC meeting the parent again requested the inclusion of math-related goals and objectives in the Student's IEP to be based on and evaluated by the WISC-

III and the WIAT. There is disagreement about whether the parent offered specific goals or made a request for the CCC to develop math-related goals based on specific criteria. The proposed IEP resulting from the September 19th CCC meeting does not include the goals and objectives requested by the parent. Although the parent received a copy of CCC Report/proposed IEP, the document does not include any information about the goals proposed by the parent or any explanation of the school's refusal to include these goals in the Student's IEP. However, in a letter dated October 20, 2001, from the parent to the cooperative's administrative assistant, the parent identifies his understanding from the September 19th CCC meeting of the school's reasons for declining to develop or include the goals and requests the school provide him with formal notice of the refusal to do so.

4. The last agreed-upon IEP is dated February 16, 2000, and expired in February 2001. Since February 2001, CCC meetings have been convened on March 15, May 14, and September 19, 2001, to develop an appropriate IEP. At these CCC meetings, only draft IEPs were presented by the School, which the parent refused to sign until a final, agreed upon IEP could be presented. There was also continued disagreement over what criteria would be used to evaluate the Student's progress toward achieving the IEP goals and objectives. The IEPs developed at these CCC meetings involved revisions that do not constitute a change of placement. The most recent IEP revision took place at a CCC meeting on September 19, 2001. The School sent a letter to the parent, dated November 21, 2001, requesting consent for the School to implement the changes in the Student's IEP. However, the parent will not agree to the IEP due to the disagreement over evaluation of goals and objectives. The School continues to implement the IEP from February 16, 2000.
5. The IEP, dated February 16, 2000, stipulates that the Student will maintain a complete daily assignment book that keeps track of what assignments are due and when to study for quizzes and tests for each class. The Student is to meet with each teacher every class period to have the assignment book signed. The Student also is to meet with the teacher of record ("TOR") daily to review the assignment book and make sure the Student has all the materials necessary to complete the assignments. The School acknowledges that since February 2000, there have been times when the assignment book has not been completed by the Student, nor signed by one or more of the Student's teachers, and there have been days when the Student has not met with the TOR. Records of monthly meetings of School personnel involved in the Student's education show that the assignment book is not always signed and checked for completeness.

CONCLUSIONS:

1. Finding of Fact #2 reflects that the School did conduct an additional evaluation on December 3, 2001, within the sixty instructional day timeline, but that the School did not convene a CCC meeting to discuss the results. Therefore, a violation of 511 IAC 7-25-7 is found.
2. 511 IAC 7-22-2(a) requires the school to provide the parent with prior written notice when the school proposes or refuses to change a student's placement, services provided, or the provision of a free appropriate public education. Changing the goals and objectives in a student's IEP impacts the provision of a free appropriate public education to the student. 511 IAC 7-22-2(d) prescribes the content of the prior written notice. Finding of Fact #3 reflects that the parent requested specific goals and objectives be added to the Student's IEP, that the school declined to include those goals in the proposed IEP, and that the school did not send the parent prior written notice regarding its refusal to change the Student's IEP as requested. Although the CCC Report/proposed IEP provided to the parent subsequent to the September 19th CCC meeting could have satisfied the prior written

notice requirements by incorporating the requisite prior notice content with the content prescribed for a CCC Report/IEP, the CCC Report/proposed IEP provided lacked some of the information required of prior written notice. Therefore, it does not satisfy the prior written notice requirement, and a violation of 511 IAC 7-22-2(a) is found. However, despite the fact that the school did not send a specific written notice, it is clear from the notes on the parent's *Parent CCC Meeting Issues* forms and the parent's October 20th letter to the school that he had been verbally apprised of the school's rationale for excluding the goals and objectives he proposed and was able to reiterate that information on his forms and in his letter.

3. Finding of Fact #4 indicates that the School continues to implement an IEP that is more than twelve months old. Therefore, a violation of 511 IAC 7-27-7(d) is found.
4. Finding of Fact #5 reflects that the School has not consistently followed through on the Student's IEP, specifically, with not always signing and checking the Student's assignment book. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Flat Rock-Hawcreek School Corporation and the Blue River Special Education Cooperative shall:

1. Convene a CCC meeting, no later than February 8, 2002, to:
 - a. discuss the additional evaluation conducted on December 3, 2001.
 - b. review and revise the IEP as needed. Submit a copy of the CCC Report and the IEP, signed by the parent(s), indicating the parent's agreement or disagreement with the proposed placement and services, no later than February 13, 2002. If no agreement is reached the School shall use mediation (if parent consents) or a due process hearing to resolve the disagreement. Mediation or a due process hearing shall be initiated no later than February 15, 2002.
2. Review and, if necessary, revise current procedures for providing parents with prior written notice when the school proposes or refuses to initiate or change a student's placement, services provided, or the provision of a free appropriate public education. The procedures must ensure that the prior written notice contains all of the information identified in 511 IAC 7-22-2(d)(1) through (9). A copy of the school's procedures shall be submitted to the Division no later than May 10, 2002.
3. Send a written reminder to appropriate personnel regarding the procedure for ensuring the Student's assignment book is updated and completed. A copy of the memorandum and a list of memorandum recipients shall be submitted to the Division no later than February 8, 2002.